



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Antenna Products Corp.

File: B-223154

Date: August 11, 1986

DIGEST

1. It is not permissible to make award to a bidder whose bid may have been lost by the government prior to bid opening; to do so would be inconsistent with protecting the integrity of the competitive bidding system.
2. Protest alleging that IFB should be canceled and resolicited where bid may have been lost by the government is denied, since the government obtained full and open competition where three bids were received and there is nothing in the record which suggests that reasonable prices were not obtained or that the loss of the bid had anything to do with a specific intent to exclude the protester.

DECISION

Antenna Products Corp. protests the award of a contract under invitation for bids (IFB) No. DLA900-86-B-1663 issued by the Defense Electronics Supply Center to any firm other than itself. Antenna contends that its bid package was sent via Federal Express and has submitted a Federal Express label which shows that the package was stamped as received in the agency mailroom on the morning of the day of bid opening. The bid was never received by either the bid opening office or the responsible contracting personnel. According to Antenna, had its bid been received, it would have been the low responsive bid. Antenna, therefore, requests that either DLA be directed to award the contract to it based on a copy of its alleged bid, or to resolicit the requirement.

We deny the protest.

The agency received three bids on the April 9, 1986 bid opening date. When the protester found on the next day that its bid was not on the bid abstract it contacted the agency. While the agency was able to verify that a package from the protester had been received in the mailroom on April 9, no bid from the protester was received in the bid opening room nor has one been found anywhere in the agency.

Where an ostensible bidder has complied with all of the requirements of a particular solicitation, but the bid has been lost after being received

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at the procuring activity prior to bid opening, it is not reasonable or permissible to allow the bidder to resubmit the bid. The award of a contract on the basis of self-serving statements as to the contents of the bid would not be consistent with the maintenance of the competitive bidding system. Hydro Fitting Mfg. Corp., 54 Comp. Gen. 999, 1001 (1975), 75-1 CPD ¶ 331. Even if Antenna could prove that the Federal Express package submitted contained a bid, in the absence of the original bid that was in the envelop there is no certainty that the bid presented after bid opening is identical to the bid received and lost before bid opening. Thus, award based on a bid copy would be inconsistent with preserving the integrity of the competitive bidding system. Prestex, Inc., et al., B-205478, et al., Feb. 17, 1982, 82-1 CPD ¶ 140.

Alternatively, Antenna argues that since the government has apparently lost the bid, the IFB should be canceled and resolicited. Under the Competition in Contracting Act (CICA) of 1984 agencies are required, when procuring property or services to obtain full and open competition through the use of competitive procedures. 10 U.S.C. § 2304(a)(1)(A) (Supp. III 1985). "Full and open competition" is obtained when "all responsible sources are permitted to submit sealed bids or competitive proposals." 10 U.S.C. § 2302(3), and 41 U.S.C. 403(7). The government cannot, however, guarantee that mistakes will never occur, even when proper procedures are followed. Although the CICA standard of full and open competition requires an agency to take reasonable steps to ensure that bids from all responsible sources are considered, that requirement should not be read so broadly as to require an agency to resolicit whenever the agency contributes to a prospective contractor's failing to have its bid considered. See NRC Data Systems, B-222912, July 18, 1986, 86-2 CPD ¶ ____.

Here, the agency reports that it received three bids under the solicitation, with the two low bids competitively priced. Thus, the government received the benefit of competition and there is nothing in the record which suggests that reasonable prices were not obtained. Moreover, there is no evidence that the loss of the bid had anything to do with a specific intent to exclude Antenna from the competition. We therefore find no basis for disturbing the procurement. See Security Assistance Forces and Equipment, B-201839, Dec. 31, 1981, 81-2 CPD ¶ 516.

The protest is denied.

for *Seymour Efron*
Harry R. Van Cleave
General Counsel